

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DANIEL RODRIGUEZ QUINTERO,

Petitioner,

v.

WARDEN TRISTAN LEMON,

Respondent.

Case No. 1:22-cv-01319-EPG-HC

ORDER TRANSFERRING CASE TO THE
UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF
CALIFORNIA

Petitioner Daniel Rodriguez Quintero is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

When a state prisoner files a habeas petition in a state that contains two or more federal judicial districts, the petition may be filed in either the judicial district in which the petitioner is presently confined or the judicial district in which he was convicted and sentenced. See 28 U.S.C. § 2241(d); Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (quoting Carbo v. United States, 364 U.S. 611, 618, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961)). Petitions challenging the execution of a sentence are preferably heard in the district where the inmate is confined. See Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989). Petitions challenging convictions or sentences are preferably heard in the district of conviction. See Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). Section 2241 further states that a district court, “in the exercise of its discretion and in furtherance of justice[,] may transfer” the habeas petition to another federal

1 district for hearing and determination. 28 U.S.C. § 2241(d); see also 28 U.S.C. § 1404(a) (court
2 may transfer any civil action “to any other district or division where it might have been brought”
3 for convenience of parties or “in the interest of justice”).

4 Here, Petitioner is challenging his criminal conviction in the San Diego County Superior
5 Court, and thus, the petition is preferably heard in the district of conviction, which is the
6 Southern District of California. Therefore, this action will be transferred. This Court has not
7 ruled on Petitioner’s request to proceed *in forma pauperis*.

8 Accordingly, IT IS HEREBY ORDERED that this action is TRANSFERRED to the
9 United States District Court for the Southern District of California.

10
11 IT IS SO ORDERED.

12 Dated: October 19, 2022

13 /s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE